

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

The Hertz Corporation, *et al.*,

Debtors.

Chapter 11

Case No. 20-11218 (MFW)

Jointly Administered

**DECLARATION OF MITCHELL FELDMAN IN SUPPORT OF
MOTION BY BAMIDELE AIYEKUSIBE AND PAWAN LAL FOR ENTRY OF AN
ORDER APPLYING BANKRUPTCY RULE 7023 CLASS PROOF OF CLAIM**

I, Mitchell Feldman, state as follows:

1. I am managing attorney and sole shareholder of the Feldman Legal (“FLG”) in Tampa Florida. FLG is a two attorney firm based in Tampa, Florida with an office in Atlanta, Georgia, that focuses on representing workers as plaintiffs in employment-related matters, including claims based upon individual and class-wide violations of state and federal wage and hour laws.

2. I am a member in good standing of the bars of the States of Florida and Georgia.

3. I have personal knowledge of the matters set forth herein and would so testify if called as a witness.

4. I submit this declaration in support of the *Motion by Bamidele Aiyekusibe and Pawan Lal for Entry of an Order Applying Bankruptcy Rule to Class Proof of Claim* (the “Motion”), filed concurrently herewith.

RELEVANT BACKGROUND

5. With its co-counsel, FLG represents Bamidele Aiyekusibe and Pawan Lal and about 630 other Location Managers who worked for the Debtors nationwide. Aiyekusibe is the lead Named Plaintiff in *Aiyekusibe, individually and on behalf of all others similarly situated, as*

class representative vs. The Hertz Corporation, et al., in the United States District Court for the Middle District of Florida (Case No. 18-0816-MRM) (the “Federal Court Litigation”), which was a litigation for unpaid wages, costs, and penalties under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* (“FLSA”). Aiyekusibe and Lal seek to assert their claims and those individuals who joined the Federal Court Litigation by submitting FLSA consent to join forms (the “Employee Class Members”) on a class/collective action basis against Hertz Corporation in general unsecured, unsecured Section 507(a)(4) priority (to the extent wages for services rendered in the 180 days before the petition in these cases), and administrative expense amounts (relating to services rendered subsequent to the petition date of these cases through and including the effective date of the sale of the debtor’s operating assets).¹

6. The Federal Court Litigation proceeded in litigation and the parties were engaged in collective action discovery. The discovery included written requests, responses, and significant document production. The parties engaged in multiple discovery conferrals and court conferences to address discovery disputes. During discovery in the Federal Court Litigation, Hertz produced a list of 2250 Class members. The United States District Court for the Middle District of Florida conditionally certified the FLSA collective action on January 28, 2020. Thereafter, notice of this lawsuit issued to Location Managers who worked for Hertz nationwide and about 630 Class members joined the case pursuant to 29 U.S.C. § 216(b).

7. The parties were scheduled to have a class-wide mediation in June, 2020 prior to Hertz’s bankruptcy filing on May 22, 2020. On May 28, 2020, Hertz filed a Notice of Suggestion of Bankruptcy in the Federal Court Litigation.

8. No materially adverse determination of substance or procedure against the

¹ All capitalized terms shall have the meaning set forth in the Motion.

Employee Class Members had been made by the court in the Federal Court Litigation at the time it was stayed against Hertz by the commencement of these chapter 11 cases.

FIRM AND ATTORNEY BACKGROUND

9. For the past 15 years, I and my predecessor and current law firm have focused on representing workers in wage and hour matters. My background and those of my associate Jason Quintus who worked on this matter are detailed below.

10. I am a graduate of the Emory University School of Law in 1995 with an undergraduate degree, a BS in Finance, from the University of South Florida.

11. I am an experienced litigator, trial attorney, and member Georgia state bar since 1995, and the Florida bar since 1996. I am member of the bar of the U.S. District Court for the Southern District of Florida U.S. District Courts for the Middle and Northern Districts of Florida, the Southern, Middle and Northern Federal District Courts of Georgia, the United States Eleventh Circuit Court of Appeals, and the Northern District of Illinois. I have also appeared in several class and collective action cases in the Southern District of New York and the Western District of New York.

12. I am rated as AV-Preeminent from Martindale-Hubbell, the highest ranking for attorneys. I also was co-counsel in an FLSA jury trial in the case of *Kubiak, et al v. Salt Water Cowboys, Case No. 3:12-CV-01306-MMH-JRK, (MDFL) March 25, 2016*, in which we prevailed at jury trial on the wage claims in the Middle District of Florida. (Dkt. No. 246).

13. My experience includes representing clients in State and Federal discrimination claims, FLSA claims, FMLA claims, ERISA, State minimum and unpaid wage claims, State whistleblower claims, workers' compensation retaliation claims, tort claims and contract claims. I also represent employees through the EEOC and State administrative processes. I have litigated

non-compete and trade secret claims. I have represented clients in appellate matters at the state of Florida.

14. Mr. Feldman, and FLG have significant experience prosecuting wage and hour class and collective actions such as this one. In recent years, the firm has served or been appointed as class counsel and served as lead counsel in FLSA national and regionally certified collective action cases including the following cases:

Brown et al v. Nexus Business Solutions, LLC, Case No. 1:17-cv-01679-ELR; and Sellers, Bell and Russell et al v. Sage Software Inc., and Paya Inc., Case No. 1:17-cv-03614-ELR-JSA. (NDGA), Tarsa and Trattner, et al v. Marketsource Inc. and American Honda Motor Company Inc., CASE NO. 1:19-cv-02684-WMR (NDGA);

Shallin, et al v. Payless Shoesource, Case No: 3:14-cv-00335-RNC, (U.S. District Court for the District of Connecticut);

Brown and Gillard v. Discrete Wireless Inc. and Fleetcor, Case No.: 8:14-cv-02606-CEH-TBM (U.S. District Court for the Middle District of Florida);

Torres Roman, et al. v. Burger King Corporation, Case No 1:15-cv-20455-KMM (U.S. District Court for the Southern District of Florida);,

Lytle, et al. v. Lowe's Home Centers, Inc., et al., Case No: 8:12-cv-1848-T-33TBM (U.S. District Court for the Middle District of Florida);

Gillard, Stramiello & Pate v. Fleetmatics USA LLC, 8:16-cv-JDW-MAP (MDFL)(national 216b Collective Action);

Brown et al v. Nexus Business Solutions, LLC, Case No. 1:17-cv-01679-ELR (NDGA);

Sellers, Bell and Russell et al v. Sage Software Inc., and Paya Inc., Case No. 1:17-cv-03614-ELR-JSA. (NDGA);

Hair and Witkowski v. Granite Telecommunications, Case No. 9:17-cv-81361-DLB (SDFL);

Tarsa and Trattner v. Marketsource Inc., Case No. 1:19-cv-02684-WMR (NDGA);

Kubiak, et al v. Salt Water Cowboys, Case No. 3:12-CV-01306-MMH-JRK, (MDFL)

15. Over the past 15 years, FLG has litigated and settled well over 100 FLSA claims involving misclassification.

16. Associate Jason Quintus is my associate attorney and has been a practicing member of the Florida bar since 1994, and is in good standing. Mr. Quintus is admitted to the Middle District of Florida.

I declare under penalty of perjury, under 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: December 21, 2020

mitchell Feldman
mitchell Feldman (Dec 21, 2020 13:42 EST)
Mitchell L. Feldman, Esq.